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FINDING OF THE INTERNATIONAL COMMISSION OF INQUIRY ORGANIZED
UNDER ARTICLE 9 OF THE CONVENTION FOR THE PACIFIC SETTLEMENT
OF INTERNATIONAL DISPUTES, OF JULY 29, 1899

*The International Commission of Inquiry between Great Britain and
Russia arising out of the North Sea incident*

Agreement of submission

His Britannic Majesty's Government and the Imperial Russian Government having agreed to intrust to an International Commission of Inquiry, assembled conformably to Articles IX to XIV of the Hague convention of the 29th (17th) July, 1899, for the pacific settlement of international disputes, the task of elucidating by means of an impartial and conscientious investigation the questions of fact connected with the incident which occurred during the night of the 21st-22d (8th-9th) October, 1904, in the North Sea (on which occasion the firing of the guns of the Russian fleet caused the loss of a boat and the death of two persons belonging to a British fishing fleet, as well as damages to other boats of that fleet and injuries to the crews of some of those boats), the undersigned, being duly authorized thereto, have agreed upon the following provisions:

ARTICLE I

The International Commission of Inquiry shall be composed of five members (commissioners), of whom two shall be officers of high rank in the British and Imperial Russian navies, respectively. The Governments of France and of the United States of America shall each be requested to select one of their naval officers of high rank as a member of the commission. The fifth member shall be chosen by agreement between the four members above mentioned.

In the event of no agreement being arrived at between the four commissioners as to the selection of the fifth member of the commission, His Imperial and Royal Majesty the Emperor of Austria, King of Hungary, shall be invited to select him.

Each of the two High Contracting Parties shall likewise appoint a legal assessor to advise the commissioners, and an agent officially empowered to take part in the labors of the commission.

ARTICLE II

The commission shall inquire into and report on all the circumstances relative to the North Sea incident, and particularly on the question as to

where the responsibility lies and the degree of blame attaching to the subjects of the two High Contracting Parties or to the subjects of other countries in the event of their responsibility being established by the inquiry.

ARTICLE III

The commission shall settle the details of the procedure which it will follow for the purpose of accomplishing the task with which it has been intrusted.

ARTICLE IV

The two High Contracting Parties undertake to supply the International Commission of Inquiry, to the utmost extent which they may find possible, with all the means and facilities necessary, in order to enable it to acquaint itself thoroughly with and appreciate correctly the matters in dispute.

ARTICLE V

The commission shall assemble at Paris as soon as possible after the signature of this agreement.

ARTICLE VI

The commission shall present its report to the two High Contracting Parties signed by all the members of the commission.

ARTICLE VII

The commission shall take all its decisions by a majority of the votes of the five commissioners.

ARTICLE VIII

The two High Contracting Parties undertake each to bear, on reciprocal terms, the expenses of the inquiry made by it previous to the assembly of the commission. The expenses incurred by the International Commission, after the date of its assembly, in organizing its staff and in conducting the investigations which it will have to make, shall be shared equally by the two Governments.

In witness whereof the undersigned have signed the present declaration and have affixed thereto their seals.

Done in duplicate at St. Petersburg, November 25 (12), 1904.

(Signed) CHARLES HARDINGE.

(Signed) COMTE LAMSDORFF.

Report of the Commissioners, drawn up in accordance with Article VI of the declaration of St. Petersburg of the 12th (25th) November, 1904

1. The commissioners, after a minute and prolonged examination of the whole of the facts brought to their knowledge in regard to the incident submitted to them for inquiry by the declaration of St. Petersburg of the 12th (25th) November, 1904, have proceeded to make, in this report, an analysis of these facts in their logical sequence.

By making known the prevailing opinion of the commission on each important or decisive point of this summary, they consider that they have made sufficiently clear the causes and the consequences of the incident in question, as well as the deductions which are to be drawn from them with regard to the question of responsibility.

2. The second Russian squadron of the Pacific fleet, under the command in chief of Vice-Admiral Aide-de-Camp General Rojdestvensky, anchored on the 7th (20th) October, 1904, off Cape Skagen, with the purpose of coaling before continuing its voyage to the Far East.

It appears, from the depositions made, that, from the time of the departure of the squadron from the roads of Réval, Admiral Rojdestvensky had had extreme precautions taken by the vessels placed under his orders, in order that they might be fully prepared to meet a night attack by torpedo boats, either at sea or at anchor.

These precautions seemed to be justified by the numerous reports received from the agents of the Imperial Government on the subject of hostile attempts to be feared, which in all likelihood would take the form of attacks by torpedo boats.

Moreover, during his stay at Skagen, Admiral Rojdestvensky had been warned of the presence of suspect vessels on the coast of Norway. He had learned, also, from the commander of the transport *Bakan* coming from the north, that he had seen on the previous night four torpedo boats, carrying a single light only, and that at the masthead.

This news made the Admiral decide to start twenty-four hours earlier.

3. Consequently, each of the six distinct divisions of the fleet got under way separately in its turn, and reached the North Sea, independently, in the order indicated by Admiral Rojdestvensky's report; that flag officer commanding in person the last division, formed by the four new battleships *Prince Souworoff*, *Emperor Alexander III*, *Borodino*, *Orel*, and the transport *Anadyr*.

This division left Skagen on the 7th (20th) October at 10 o'clock in the evening.

A speed of 12 knots was ordered for the first two divisions, and of 10 knots for the following divisions.

4. Between 1.30 and 4.15 on the afternoon of the next day, the 8th (21st) October, all the divisions of the squadron passed in turn the English steamer *Zero*, the captain of which examined the different units attentively enough to enable them to be recognized from his description of them.

The results of his observations are, moreover, in general agreement with the statements in Admiral Rojdestvensky's report.

5. The last vessel which passed the *Zero* was, from his description of her, the *Kamchatka*.

This transport, which originally was in a division with the *Dmitri Donskoi* and the *Aurora*, was, therefore, left behind and isolated about 10 miles to the rear of the squadron. She had been obliged to slacken speed in consequence of damage to her engines.

This accidental delay was, perhaps, incidentally the cause of the events which followed.

6. Toward 8 o'clock in the evening this transport did, in fact, meet the Swedish vessel *Aldebaran* and other unknown vessels and opened fire on them, doubtless in consequence of the anxiety inspired in the circumstances of the moment by her isolation, the damage to her engines, and her small fighting value.

However this may be, the commander of the *Kamchatka*, at 8.45 o'clock, sent a message by wireless telegraphy to his commander-in-chief regarding this encounter, stating that he was "attacked on all sides by torpedo boats."

7. In order to understand the effect which this news had on Admiral Rojdestvensky's subsequent decisions, it must be remembered that, in his estimate, the attacking torpedo boats, of whose presence, 50 miles to the rear of the division which he commanded, he was thus, rightly or wrongly, informed, might overtake and attack him about 1 o'clock in the morning.

This information led Admiral Rojdestvensky to signal to his ships about 10 o'clock in the evening to redouble their vigilance and look out for an attack by torpedo boats.

8. On board the *Souvoroff* the Admiral had thought it indispensable that one of the two superior officers of his staff should be on watch on the captain's bridge during the night in order to observe, in his place, the progress of the squadron, and to warn him at once if any incident occurred.

On board all the ships, moreover, the standing orders of the Admiral laid down that the officer of the watch was authorized to open fire in case of an evident and imminent attack by torpedo boats.

If the attack was from the front he was to open fire on his own initiative, and, in the contrary case, which would be much less pressing, he was to refer to his commanding officer.

With regard to these orders, the majority of the commissioners consider that they were in no way excessive in time of war, and particularly in the circumstances, which Admiral Rojdestvensky had every reason to consider very alarming, seeing that it was impossible for him to verify the accuracy of the warnings that he had received from the agents of his Government.

9. Toward 1 o'clock in the morning of the 9th (22d) October, 1904, the night was rather dark, a slight, low fog partly clouding the air. The moon only showed intermittently between the clouds. A moderate wind blew from the southeast, raising a long swell, which gave the ships a roll of 5° on each side.

The course followed by the squadron toward the southwest would have taken the last two divisions, as the event proved, close past the usual fishing ground of the fleet of Hull trawlers, which was composed of some thirty of these small steamboats, and was spread over an area of several miles.

It appears from the concordant testimony of the British witnesses that all these boats carried their proper lights, and were trawling in accordance with their usual rules, under the direction of their "admiral," and in obedience to the signals given by the conventional rockets.

10. Judging from the communications received by wireless telegraphy, the divisions which preceded that of Admiral Rojdestvensky across these waters had signaled nothing unusual.

It became known afterward, in particular, that Admiral Folkersam, having been led to pass round the fishing fleet on the north, threw his electric searchlight on the nearest trawlers at close quarters, and, having seen them to be harmless vessels, quietly continued his voyage.

11. A short time afterwards the last division of the squadron, led by the *Souvoroff* flying Admiral Rojdestvensky's flag, arrived in its turn close to the spot where the trawlers were fishing.

The direction in which this division was sailing led it nearly toward the main body of the fleet of trawlers, round which and to the south of which it would therefore be obliged to sail, when the attention of the

officers of the watch on the bridges of the *Souvoroff* was attracted by a green rocket, which put them on their guard. This rocket, sent up by the "admiral" of the fishing fleet, indicated in reality, according to regulation, that the trawlers were to trawl on the starboard tack.

Almost immediately after this first alarm, and as shown by the evidence, the lookout men, who, from the bridges of the *Souvoroff*, were scanning the horizon with their night glasses, discovered "on the crest of the waves on the starboard bow, at an approximate distance of 18 to 20 cables," a vessel which aroused their suspicions because they saw no light, and because she appeared to be bearing down upon them.

When the suspicious-looking vessel was shown up by the searchlight, the lookout men thought they recognized a torpedo boat proceeding at great speed.

It was on account of these appearances that Admiral Rojdestvensky ordered fire to be opened on this unknown vessel.

The majority of the commissioners express the opinion, on this subject, that the responsibility for this action and the results of the fire to which the fishing fleet was exposed are to be attributed to Admiral Rojdestvensky.

12. Almost immediately after fire was opened to starboard, the *Souvoroff* caught sight of a little boat on her bow barring the way, and was obliged to turn sharply to the left to avoid running it down. This boat, however, on being lit up by the searchlight, was seen to be a trawler.

To prevent the fire of the ships being directed against this harmless vessel, the searchlight was immediately thrown up at an angle of 45°.

The Admiral then made the signal to the squadron "not to fire on the trawlers."

But at the same time that the searchlight had lit up this fishing vessel, according to the evidence of witnesses, the lookout men on board the *Souvoroff* perceived to port another vessel, which appeared suspicious from the fact of its presenting the same features as were presented by the object of their fire to starboard.

Fire was immediately opened on this second object, and was, therefore, being kept up on both sides of the ship, the line of ships having resumed their original course by a correcting movement without changing speed.

13. According to the standing orders of the fleet, the Admiral indicated the objects against which the fire should be directed by throwing his searchlight upon them; but as each vessel swept the horizon in every

direction with her own searchlights to avoid being taken by surprise, it was difficult to prevent confusion.

The fire, which lasted from ten to twelve minutes, caused great loss to the trawlers. Two men were killed and six others wounded; the *Crane* sank; the *Snipe*, the *Mino*, the *Moulmein*, the *Gull*, and the *Majestic* were more or less damaged.

On the other hand, the cruiser *Aurora* was hit by several shots.

The majority of the commissioners observe that they have not sufficiently precise details to determine what was the object fired on by the vessels; but the commissioners recognize unanimously that the vessels of the fishing fleet did not commit any hostile act, and the majority of the commissioners being of opinion that there were no torpedo boats either among the trawlers nor anywhere near, the opening of fire by Admiral Rojdestvensky was not justifiable.

The Russian commissioner, not considering himself justified in sharing this opinion, expresses the conviction that it was precisely the suspicious-looking vessels approaching the squadron with hostile intent which provoked the fire.

14. With reference to the real objectives of this nocturnal firing, the fact that the *Aurora* was hit by several 47-millimeter and 75-millimeter shells would lead to the supposition that this cruiser, and perhaps even some other Russian vessels, left behind on the route followed by the *Souvoroff* unknown to that vessel, might have provoked and been the object of the first few shots.

This mistake might have been caused by the fact that this vessel, seen from astern, was apparently showing no light, and by a nocturnal optical illusion which deceived the lookout on the flagship.

On this head the commissioners find that they are without important information which would enable them to determine the reasons why the fire on the port side was continued.

According to their conjecture, certain distant trawlers might have been mistaken for the original objectives, and thus fired upon directly. Others, on the contrary, might have been struck by a fire directed against more distant objectives.

These considerations, moreover, are not in contradiction with the impressions formed by certain of the trawlers, who, finding that they were struck by projectiles and remained under the rays of the searchlights, might believe that they were the object of a direct fire.

15. The time during which the firing lasted on the starboard side,

even taking the point of view of the Russian version, seems to the majority of the commissioners to have been longer than was necessary.

But that majority consider that, as has already been said, they have not before them sufficient data as to why the fire on the port side was continued.

In any case, the commissioners take pleasure in recognizing, unanimously, that Admiral Rojdestvensky personally did everything he could, from beginning to end of the incident, to prevent trawlers, recognized as such, from being fired upon by the squadron.

16. Finally, the *Dmitri Donskoi* having signaled her number, the Admiral decided to give the general signal for "cease firing." The line of his ships then continued on their way, and disappeared to the southwest without having stopped.

On this point the commissioners recognize, unanimously, that after the circumstances which preceded the incident and those which produced it, there was, at the cessation of fire, sufficient uncertainty with regard to the danger to which the division of vessels was exposed to induce the Admiral to proceed on his way.

Nevertheless, the majority of the commissioners regret that Admiral Rojdestvensky, in passing the Straits of Dover, did not take care to inform the authorities of the neighboring maritime powers that, as he had been led to open fire near a group of trawlers, these boats, of unknown nationality, stood in need of assistance.

17. In concluding this report, the commissioners declare that their findings, which are therein formulated, are not, in their opinion, of a nature to cast any discredit upon the military qualities or the humanity of Admiral Rojdestvensky, or of the personnel of his squadron.